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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,831	07/31/2003	Troy M. Anderson	PET001-106	8136
7590	08/06/2004		EXAMINER	
DIEDERIKS & WHITELAW, PLC				ALI, MOHAMMAD M
12471 Dillingham Square, #301				
Woodbridge, VA 22192				
				ART UNIT
				PAPER NUMBER
				3744

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/630,831	ANDERSON ET AL.	
	Examiner	Art Unit	
	Mohammad Ali	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 July 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 July 2003 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>07/31/03</u> . | 6) <input type="checkbox"/> Other: _____. |

Election/Restrictions

Applicant's election with traverse of restriction in the reply filed on 07/23/04 is acknowledged. The traversal is on the ground(s) that only one independent restricted claim can be examined without much burden. This is found persuasive and proposal is accepted.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "195" and "185" in Fig. 4 have both been used to designate fin. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 17-21, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al. (6,739,146) in view of Cheng (6,457,955). Davis et al., disclose a refrigerator comprising a cabinet shell including fresh food compartment 43 and a freezer compartment 40; a passage for fluidly interconnecting the fresh food compartment 43 with the freezer compartment 40 such that a flow of cooling air can flow from the freezer compartment 40 to the fresh food compartment 43 a damper 130 provided in the passage, the damper 130 being selectively movable between at least an open position and a closed position in order to control the flow of air; a cooling system 52/70 for developing the flow of air of cooling air directed from the freezer compartment 40 into the fresh food compartment 43 when the damper 130 is in open position; a fresh food stirring fan 110 mounted in the fresh food compartment 43 for developing recirculation airflow within the fresh food compartment 43; a control unit 160 for operating the stirring fan 110, damper 130 door sensor 170, ambient sensor 155 coils sensor 150 fresh food sensor 143, freezer sensor 140 and evaporator fan 70. Davis et al., disclose the invention substantially as claimed as stated above.

See Fig. 2 and 3. However, Davis et al., do not disclose a fan cover including a central portion through which recirculating airflow is drawn, and a peripheral portion for redirecting the recirculating airflow back into the fresh food compartment. Cheng teaches the use of a fan assembly including a fan cover/frame 3, a central inlet opening 31 and peripheral outlet openings 23, fan blades 22/23, base plate 1, tabs/hooks 33, snap portion 15 for the hooks 33 in a fan assembly for the purpose of heat dissipation. See Fig. 3. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigerator of Davis et al., in view of Cheng such that a fan assembly could be provided in order to heat dissipation and maintain a desired temperature in the fresh food compartment.

Claims 1-16, 22, 23 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Davis et al., in view of Cheng as applied to claim 17 above, and further in view of Newman (5,256,159). Davis et al., in view of Cheng disclose the invention substantially as claimed as stated above. However, Davis et al. in view of Cheng do not disclose a filter. Newman teaches the use of a filter element 10 in a fan assembly for the purpose of removing odors and other contaminants. See Fig.1 and column 4, lines 16-25. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigerator of Davis et al., in view of Cheng and further in view of Newman such that a filter could be provided in order to remove odors and other contaminant carried by the recirculating airflow. Activation and deactivation

of stirring fan 110, opening and closing of damper 130 can be adjusted through the CPU 160 as per requirement by an ordinary skill in the art.

Any inquiry concerning this communication or earlier from the examiner should be directed to Mohammad M. Ali, whose telephone number is (703) 308-5032. The examiner can be reached from 6:10am to 4:30pm from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel, can be reached at (703) 308-2597. The fax number for the organization where this application or proceeding is assigned is 703-308-7764 for regular communications and after-final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

Md. Mohsin Ali

Mohammad M. Ali

August 6, 2004